

ESTTA Tracking number: **ESTTA347194**

Filing date: **05/12/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Emissaries of Divine Light, California		
Entity	Corporation	Citizenship	California
Address	25005 Glen Ivy Road Corona, CA 92883 UNITED STATES		

Name	Glen Ivy Hot Springs		
Entity	Corporation	Citizenship	California
Address	25005 Glen Ivy Road Corona, CA 92883 UNITED STATES		

Attorney information	Joshua M. Wolff Wolff Law Corporation 9160 Irvine Center Drive Suite 200 Irvine, CA 92618 UNITED STATES jwolff@wolff-law.com Phone:(949)769-3600		
----------------------	---	--	--

Applicant Information

Application No	77890662	Publication date	05/04/2010
Opposition Filing Date	05/12/2010	Opposition Period Ends	06/03/2010
Applicant	Home Living Solutions LLC 42261 Zevo Drive Temecula, CA 92590 UNITED STATES		


Goods/Services Affected by Opposition


Class 011. All goods and services in the class are opposed, namely: Walk-in bathtubs

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Opposers are the common-law owners of various GLEN IVY trademarks which Opposers have used in commerce since long before Applicant's filing and/or date of first use. Applicant's trademark is likely to cause confusion with Opposers' common-law trademarks.

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3783805	Application Date	08/17/2009
Registration Date	05/04/2010	Foreign Priority Date	NONE
Word Mark	THE GLEN IVY CENTER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2007/11/01 First Use In Commerce: 2009/10/01 For: Resort lodging services, and food preparation services		

U.S. Registration No.	2291219	Application Date	10/13/1998
Registration Date	11/09/1999	Foreign Priority Date	NONE
Word Mark	THE GLEN IVY COMMUNITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1992/09/00 First Use In Commerce: 1992/09/00 Providing temporary lodging and food preparation services at a retreat resort		

U.S. Registration No.	1688216	Application Date	10/03/1990
Registration Date	05/19/1992	Foreign Priority Date	NONE
Word Mark	GLEN IVY		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1985/04/00 First Use In Commerce: 1990/04/00 health resort services

U.S. Registration No.	1712918	Application Date	10/02/1990
Registration Date	09/08/1992	Foreign Priority Date	NONE
Word Mark	GLEN IVY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1980/00/00 First Use In Commerce: 1980/00/00 cosmetics and cleaning preparations; namely, clay masques, hair shampoos, hair conditioners, body tanning oils, body massage oils, hand and body lotions, skin moisturizers, suntan lotions, facial masques, tanning gels, massage creams, hydrating moisturizers, hydrating complex creams, body cleansing gels, facial and body scrubbing lotions, body masques, mineral water bath crystals, body packs, cleansing lotions, foaming lotion cleansers, facial cleansing geleees, scrubbing lotions, rose water toners, mineral sprays, collage-elastin creams, and botanical treatment concentrates		

U.S. Registration No.	3390089	Application Date	04/24/2006
Registration Date	02/26/2008	Foreign Priority Date	NONE
Word Mark	GLEN IVY SUN TIMES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1985/06/01 First Use In Commerce: 1985/06/01		

	print magazine featuring topics on US spa lifestyle and products and services
--	---

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GLEN IVY		
Goods/Services	Swimming pools, mineral baths, mud baths, hot tubs, massage services, skin treatments for the face and body, manicures and pedicures, restaurant services, retail stores featuring spa products including skincare products and clothing, in a resort setting, and online website offering same.		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GLEN IVY HOT SPRINGS SPA		
Goods/Services	Swimming pools, mineral baths, mud baths, hot tubs, massage services, skin treatments for the face and body, manicures and pedicures, restaurant services, retail stores featuring spa products including skincare products and clothing, in a resort setting, and online website offering same.		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GLEN IVY HOT SPRINGS		
Goods/Services	Swimming pools, mineral baths, mud baths, hot tubs, massage services, skin treatments for the face and body, manicures and pedicures, restaurant services, retail stores featuring spa products including skincare products and clothing, in a resort setting, and online website offering same.		

Attachments	77805821#TMSN.jpeg (1 page)(bytes) 75568710#TMSN.gif (1 page)(bytes) 74102763#TMSN.gif (1 page)(bytes) 78868109#TMSN.jpeg (1 page)(bytes) OPPOSITION - GLEN IVY 77890662.pdf (6 pages)(67224 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Josh Wolff/
Name	Joshua M. Wolff
Date	05/12/2010

Joshua M. Wolff, Esq. (Bar No. 134426)
WOLFF LAW CORPORATION
9160 Irvine Center Dr., Suite 200
Irvine, California 92618-4683
T: (949) 769-3600 | F: (949) 769-3601
jwolff@wolff-law.com

Attorneys for Opposers

U.S. PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application
Serial No. 77/890,662

For the mark: GLEN IVY

Published in the Official Gazette
(Trademarks) on May 4, 2010

EMISSIONARIES OF DIVINE LIGHT,
CALIFORNIA, a California non-profit
corporation, d/b/a The Glen Ivy Center, and
The Emissionaries; and
GLEN IVY HOT SPRINGS, a California
corporation,

Opposers,

vs.

HOME LIVING SOLUTIONS, LLC, a
California limited liability company,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposers Emissionaries of Divine Light, California, d/b/a The Glen Ivy Center and The
Emissionaries (“Glen Ivy Center”), and Glen Ivy Hot Springs are California corporations with
principal places of business at 25005 Glen Ivy Road, Corona, California 92883 (collectively,
“Opposers”). Opposers believe they will be damaged by issuance of a trademark registration to

1 Home Living Solutions, LLC (“Applicant”) for the mark GLEN IVY for use in association with
2 walk-in bathtubs. Accordingly, Opposers oppose the Applicant’s registration request on the
3 grounds below.

4
5 1. Opposer Glen Ivy Center owns the following U.S. Trademark Registrations:

- 6
7 a. THE GLEN IVY CENTER, Registration No. 3,783,805 for resort lodging
8 services, and food preparation services, registered on May 4, 2010;
9
10 b. GLEN IVY COMMUNITY, Registration No. 2,291,219 for providing
11 temporary lodging and food preparation services at a retreat resort, registered
12 on November 9, 1999;
13
14 c. GLEN IVY & Design, Registration No. 1,688,216, for health resort services,
15 registered on May 19, 1992. This registration is incontestable; and
16
17 d. GLEN IVY, Registration No. 1,712,918, for cosmetics and cleaning
18 preparations; namely, clay masques, hair shampoos, hair conditioners, body
19 tanning oils, body massage oils, hand and body lotions, skin moisturizers,
20 suntan lotions, facial masques, tanning gels, massage creams, hydrating
21 moisturizers, hydrating complex creams, body cleansing gels, facial and body
22 scrubbing lotions, body masques, mineral water bath crystals, body packs,
23 cleansing lotions, foaming lotion cleansers, facial cleansing geleees, scrubbing
24 lotions, rose water toners, mineral sprays, collage-elastin creams, and
25 botanical treatment concentrates, registered on September 8, 1992. This
26 registration is incontestable.
27
28

1 2. The Glen Ivy Center also owns the domain name registration www.glenivy.org,
2 which it registered on July 20, 1998 and through which it offers its services.

3
4 3. Opposer Glen Ivy Hot Springs is the owner of the following U.S. Trademark
5 Registration:

6
7 a. GLEN IVY SUN TIMES, Registration No. 3,390,089 for print magazine
8 featuring topics on U.S. spa lifestyle and products and services, registered on
9 February 26, 2008.

10
11 4. Opposer Glen Ivy Hot Springs is the owner of the common law trademarks GLEN
12 IVY HOT SPRINGS, GLEN IVY HOT SPRINGS SPA, and GLEN IVY for providing
13 swimming pools, mineral baths, mud baths, hot tubs, massage services, skin treatments for the
14 face and body, manicures and pedicures, restaurant services, retail store featuring spa products
15 including skincare products and clothing, in a resort setting. Glen Ivy Hot Springs has used the
16 common law marks, specifically for its mineral bath services, in commerce since 1879. Glen Ivy
17 Hot Springs also uses its GLEN IVY common law mark in its domain name registration
18 www.glenivy.com, which it registered on March 17, 1998 and through which it offers the above
19 products and services.

20
21 5. The registered and common law trademarks of Glen Ivy Center and Glen Ivy Hot
22 Springs are collectively referred to the GLEN IVY Marks.

23
24 6. Opposers, together with their predecessors-in-interest, successors-in-interest,
25 subsidiary entities, affiliated entities and authorized licenses have been using the GLEN IVY
26 Marks with various products services, including mineral baths, mud baths, hot tubs, pools, and
27 resort services since as early as 1879.

1 7. Since their adoption and use of the GLEN IVY Marks, Opposers have extensively
2 advertised and promoted its services, particularly its mineral bath services and resort services,
3 under the marks. As a consequence, the consuming public has become to recognize, and do
4 recognize, the GLEN IVY MARKS as being used exclusively by Opposers, and to associate and
5 identify such services and products offered under the GLEN IVY Marks as emanating from a
6 single source, namely Opposers.

7
8 8. Opposers' GLEN IVY Marks are well known and Opposers have derived
9 substantial goodwill and value from its identification with the GLEN IVY Marks in its business.
10 Opposers' services offered under the GLEN IVY Marks have received several accolades and
11 numerous positive reviews.

12
13 9. On December 10, 2009, Applicant submitted the following application on an
14 intent-to-use basis: GLEN IVY, U.S. Application Serial No. 77/890,662 for walk-in bathtubs in
15 International Class 11 ("Applicant's Mark").

16
17 10. For decades, and since long before Applicant's filing date and/or first use, actual
18 or constructive, Opposers have been offering resort services, mineral bath, hot-tub, and pool
19 services, as well as other bath and bathing products such as bath crystals, body cleansers, face
20 cleansers, shampoos and conditioners under the GLEN IVY Marks. Consequently, the goods set
21 forth in the subject application and the goods and services of the Opposers are highly related if
22 not identical.

23
24 11. Upon information and belief, Applicant's adoption, use of, and application to
25 register Applicant's Mark was intentionally done with a view and purpose of trading on and
26 pirating away the substantial reputation and goodwill associated with the GLEN IVY Marks.
27 Upon information and belief, Applicant adopted the mark in order to give its customers and
28 clientele appeal and salability that such mark would not otherwise possess.

1 12. Applicant's Mark, when used in connection with Applicant's goods as identified
2 in the subject application, so resembles Opposers' previously used GLEN IVY Marks as to be
3 likely to cause confusion, to cause mistake, and/or to deceive members of the public concerning
4 an affiliation, connection, association or sponsorship relationship with the source of the goods
5 and services provided under the Opposers' GLEN IVY Marks and would dilute the distinctive
6 quality of Opposers' GLEN IVY Marks in violation of Section 2(d) of the Lanham Act, 15
7 U.S.C. 1052(d).

8
9 THEREFORE, Opposers request that the registration of the above-referenced mark be
10 refused and this opposition be sustained.

11
12 This Notice of Opposition is being filed electronically, along with the filing fee required
13 by 37 C.F.R. §2.6(a)(17). All correspondence relating to this matter should be directed to the
14 undersigned attorney for Opposers.

15
16 Dated May 12, 2010

Respectfully submitted,

WOLFF LAW CORPORATION

18
19 

20 By _____
Joshua M. Wolff, Esq.
9160 Irvine Center Dr., Suite 200
Irvine, California 92618-4683
T: (949) 769-3600 | F: (949) 769-3601
jwolff@wolff-law.com
Attorneys for Opposers

1 **CERTIFICATE OF SERVICE**

2

3 Opposers Emissaries of Divine Light, California, and Glen Ivy Hot Springs,

4 hereby certify that a copy of this NOTICE OF OPPOSITION has been served upon counsel for


5 Applicant, Home Living Solutions LLC, on May 12, 2010, by First Class U.S. Mail, postage

6 prepaid, at the following address:

7

8 Peter N. Lobasso
JOHANSON BERENSON ^{LLP}
1146 Walker Rd. Ste. C
9 Great Falls, VA 22066-1838
10 *Counsel for Applicant*

11

12 By  _____

13 Joshua M. Wolff, Esq.
14 *Attorneys for Opposers*

15

16

17

18

19

20

21

22

23

24

25

26

27

28